

State of California

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Legislative Change No.

00-35

Bill Number: AB 2892

Author: AR&T Committee

Chapter Number: 00-863

Laws Affecting Franchise Tax Board:

Revenue and Taxation Code Sections 18503, 18504, 18505, 18505.3, 18507, 18508, 18528, 18531.5, 18532, 18547, 18552, 18631, 18633, 18633.5, 18635.5, 18636, 18637, 18638, 18639, 18641, 18643, 18645, 18647, 19101, 19102, 19103, 19104, 19105, 19106, 19111, 19115, 19120, 19183, 19524, 23802, and 23810.

Date Filed with the Secretary of the State: September 29, 2000

SUBJECT: Information Return>Returns of Individuals and Fiduciaries/Interest on Unpaid Tax and Deficiencies

Assembly Bill 2892 (Assembly Revenue and Taxation Committee), as enacted on September 29, 2000, made the following changes to California law:

Section 18503 of the Revenue and Taxation Code (R&TC) is amended and renumbered to 18505.6.

This act amends existing California law to conform more closely to Section 6012(b) of the Internal Revenue Code (IRC). This act provides that a receiver appointed by law who possesses only part of an individual's property is not required to file an income tax return for that individual. This section is renumbered to 18505.6 to follow the provision regarding fiduciary returns.

Section 18504 of the R&TC is repealed.

This act repeals existing California law that requires a resident or nonresident with taxable income from an estate or trust to include that income in his or her gross income. This provision is no longer necessary as state law conforms to IRC Section 61(a)(15) that defines the different sources of gross income, including income from estates or trusts.

Section 18505 of the R&TC is amended.

This act amends existing California law by increasing the filing thresholds for fiduciaries to be equivalent to the filing thresholds for individuals as stated in Section 18501. Also, this act deletes the provisions relating to information to beneficiaries of estates and trusts and their returns and reenacts these provisions as Sections 18631 and 18635.5.

Section 18505.3 of the R&TC is added.

This act requires an executor, administrator, or other person charged with the property of a deceased individual to file an individual return as required under Section 18501. This provision conforms to IRC Section 6012(b)(1) without reference.

Bureau Director

Johnnie Lou Rosas

Date

October 24, 2000

Section 18507 of the R&TC is repealed.

This act repeals existing California law that requires a nonresident taxpayer to file a return if the individual is required to pay any tax, regardless of the amount of adjusted gross income. This provision is no longer necessary as the filing threshold for a nonresident taxpayer is equivalent to the filing threshold of a resident taxpayer as stated in Section 18501.

Section 18508 of the R&TC is amended.

This act amends existing California law to conform more closely to paragraphs (4) and (5) of IRC Section 6012(b). This act provides that a fiduciary will file the returns of an estate, trust, or individual Chapter 7 or 11 bankruptcy estate. This act also specifies that a return made by one of two or more joint fiduciaries will be sufficient to comply with the filing requirements of Section 18501.

Section 18528 of the R&TC is amended.

This act amends existing California law to conform more closely to IRC Section 6013(b)(3). This act clarifies the date returns are deemed to have been filed by married taxpayers that file separate returns. Also, this act increases the filing thresholds to be equivalent to the filing thresholds for single individuals as stated in Section 18501.

Section 18531.5 of the R&TC is added.

This act provides that when a spouse dies, the joint return filed by the surviving spouse will be treated as if the taxable year of both spouses was the taxable year of the surviving spouse. This provision conforms to IRC Section 6013(c) without reference.

Section 18532 of the R&TC is amended.

This act amends existing California law to conform more closely to IRC Section 6013(d). This act provides that an individual who is legally separated from his or her spouse under a divorce decree or of separate maintenance is not considered married. Also, this act provides that if a joint return is made, the tax shall be computed on the aggregate income and the tax liability will be joint and several.

Section 18547 of the R&TC is renumbered to Section 18628.

This act relocates existing California law on tax shelters to Section 18628 of the Administration of Franchise and Income Tax Laws (AFITL) to conform more closely to the structure of the IRC.

Section 18552 of the R&TC is amended and renumbered to 18408.

This act amends existing California law to correct an erroneous cross-reference to provide that the Franchise Tax Board (FTB) is authorized to require information on persons subject to the taxes imposed by Article 5 of Chapter 2 of the AFITL. Also, this act relocates this provision to Section 18408.

Section 18631 of the R&TC is amended.

This act amends existing California law on information returns to allow the consolidation of several filing requirement provisions into this section to permit the repeal of multiple sections that previously contained these requirements separately.

Section 18633 of the R&TC is amended.

This act amends existing California law to conform more closely to IRC Section 6031, relating to partnership tax returns, and deletes obsolete language regarding previous effective dates.

Section 18633.5 of the R&TC is amended.

This act amends existing California law relating to limited liability companies by deleting references to the Bank and Corporation Tax Law (B&CTL). Provisions relating to limited liability companies were previously repealed in the B&CTL and reenacted in the Personal Income Tax Law. Existing references to the B&CTL sections are thus obsolete.

Section 18635.5 of the R&TC is added.

This act conforms to IRC Section 6034A, relating to information to beneficiaries of estates and trusts, nominee-reporting information, and beneficiary returns that must be consistent with estate or trust returns.

Section 18636 of the R&TC is repealed.

This act repeals existing California law relating to information required in connection with certain options. This provision is reenacted as Section 18631(c)(2).

Section 18637 of the R&TC is repealed.

This act repeals existing California law relating to information returns from taxpayers engaged in a trade or business. This provision is reenacted as Section 18631(c)(4).

Section 18638 of the R&TC is repealed.

This act repeals existing California law relating to returns regarding payments of remuneration for services and direct sales. This provision is reenacted as Section 18631(c)(5).

Section 18639 of the R&TC is amended.

This act amends existing California law to delete the provision requiring an individual that filed an information return with the Internal Revenue Service to report that information to the FTB. This provision is reenacted as paragraphs (6) and (8) of Section 18631(c).

Section 18641 of the R&TC is repealed.

This act repeals existing California law relating to information returns made by brokers. This provision is reenacted as part of Section 18631(c)(7).

Section 18643 of the R&TC is repealed.

This act repeals existing California law relating to returns required for real property transactions. This provision is reenacted as part of Section 18631(c)(7).

Section 18645 of the R&TC is repealed.

This act repeals existing California law requiring copies of federal information returns to be filed with FTB if a federal information return was required in specific instances. These provisions are reenacted as paragraphs (3), (9), (11), (12), (13), (14), (15), (16), (17), (18), and (19) of Section 18631(c).

Section 18647 of the R&TC is repealed.

This act repeals existing California law requiring information returns from employers providing group-term life insurance. This provision is reenacted as Section 18631(c)(20).

Section 19101 of the R&TC is amended.

This act amends existing California law regarding interest on unpaid tax to allow the consolidation of several payment and interest provisions into this section. This permits the repeal of many sections of law that previously contained these provisions individually.

Section 19102 of the R&TC is repealed.

This act repeals existing California law relating to interest assessed on extended time payments. This provision is reenacted as Section 19101(b)(1).

Section 19103 of the R&TC is repealed.

This act repeals existing California law relating to the determination of the last date prescribed for payment. This provision is reenacted as Section 19101(b)(2).

Section 19104 of the R&TC is amended.

This act amends existing California law to specify taxpayer appeal guidelines regarding FTB's notice of determination not to abate interest. Also, this act provides appeal guidelines for requests of abatement of interest related to proposed deficiencies. This act deleted a provision relating to the collection of interest on a deficiency and reenacted this provision as Section 19101(c)(1). This act deleted a provision relating to the assessment and collection of erroneous refunds and reenacted this provision as Section 19368.

Section 19105 of the R&TC is amended.

This act amends existing California law to delete a cross-reference made to Section 19104 and replaces it with the correct cross-reference of Section 19101.

Section 19106 of the R&TC is repealed.

This act repeals existing California law relating to interest assessed on unpaid assessable penalties. This provision is reenacted as Section 19101(c)(2).

Section 19111 of the R&TC is repealed.

This act repeals existing California law relating to waivers of interest if payment is made upon notice and demand. This provision is reenacted as Section 19101(c)(3).

Section 19115 of the R&TC is repealed.

This act repeals existing California law relating to the applicability of interest to estimated tax. This provision is reenacted as Section 19101(d).

Section 19120 of the R&TC is added.

This act provides that any erroneous refund that is recoverable by suit shall bear interest at the adjusted annual rate beginning with the date that is 30 days after FTB mails a demand for repayment.

Section 19183 of the R&TC is amended.

This act amends existing California law to delete cross-references to R&TC sections that are repealed under this act.

Section 19368 of the R&TC is added.

This act provides guidelines for FTB to assess and collect any amount deemed to be an erroneous refund or credit. This section was formerly Section 19104(b).

Section 19524 of the R&TC is renumbered to Section 18409.

This act relocates existing California law on regulations concerning magnetic media returns to Section 18409 of Chapter 2 entitled "Returns" to conform more closely to the structure of the IRC.

Section 23802 of the R&TC is amended.

This act amends existing California law to replace a cross-reference to R&TC Section 19102, which is repealed under this act, with the correct cross-reference of Section 19101.

Section 23810 of the R&TC is repealed.

This act repeals existing California law relating to group returns of nonresident shareholders. This provision is unnecessary since Section 18535(c) already provides for this treatment.

This act is effective January 1, 2001. Provisions affecting the imposition or computation of tax, additions to tax, penalties, or the allowance of credits would be operative for taxable and income years beginning on or after that date. Other provisions would be operative on and after January 1, 2001.

This act will not require any reports by the department to the Legislature.